XI-HC—78

(65)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

29/11/07

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Cr. M.P. No.481/07

PETITIONERS

1. Dwasram, S/o Mohar Sai Sarthi, aged about 22 years, resident of Village Birra, P.S. Bamhandih, District Janjgir-Champa (CG)
2. Ramadhar, S/o Budalu Patel, aged about 27 years, resident of Devraha, P.S. Bamhandih, District Janjgir-Champa (CG)
3. Munna Yadav, S/o Dhanman Yadav, aged about 30 years, resident of Devraha, P.S. Bamhandih, District Janjgir-Champa (CG)

Vs

RESPONDENT

The State of Chhattisgarh, Through Disrict Magistrate, Janjgir-Champa, District Janjgir Champ (CG)

Present:
Mr. Shailendra Dubey, Advocate for the petitioners.
Mr. N.K. Mehta, Panel Lawyer for the respondent-State.

ORAL ORDER

(28th November, 2007)

Per Dhirendra Mishra, J:

By this petition under Section 482 of the Cr.P.C. the petitioners have impugned the order dated 10.9.2007 passed by the learned Sessions Judge, Janjgir in Criminal Revision No.103/07 arising out of order dated 31.8.2007 passed by the Chief Judicial Magistrate, Janjgir whereby learned Sessions Judge has rejected the revision petition and upheld the order of learned Chief Judicial Magistrate whereby the application preferred by the petitioners under Section 167 (2) of Cr.P.C. has been rejected.

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	The grievance of the petitioners is that on the basis of FIR dated 14.5.2007 offence under Sections 392, 120B/34 of IPC was registered against the petitioners and various remands were taken by the police for filing the charge sheet and ultimately the charge sheet was filed on 31.8.2007 i.e. on 76th day after the petitioners were remanded to the judicial custody by the Magistrate. It is argued that the offence under Section 392/397 is punishable with the maximum jail sentence of 10 years and in these circumstances since the charge sheet could not be filed within a period of 60 days, the petitioners were entitled to be released on bail, as per Section 167 (2) of the Cr.P.C. It is further argued that even after the application under Section 167 (2) of Cr.P.C. was rejected by the Magistrate, the remand was obtained by the police for the offence punishable under Section 397 and the revision preferred by the petitioners against the order of Chief Judicial Magistrate has been rejected by the revisional court with an observation that offence under Section 397 is punishable with the minimum jail sentence of seven years and therefore, it cannot be said that the period for filing the charge sheet is 60 days. From perusal of the memo of revision (Annexure P-6) filed by the petitioners, it is evident that number of accused persons are involved in the crime in question and even the final report mentions that the charge sheet has been filed against the five accused persons though the offence is mentioned under Section 392, 120B & 397/34 of the IPC.	

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
Roshan/-	Taking into consideration the number of accused persons involved in the crime in question and nature of allegations against the accused persons of robbery prima-facie offence under Section 395 of the IPC, which is punishable with the life imprisonment, is there and for the purposes of provisions under Section 167 (2) of the Cr.P.C., the charge sheet may be filed within 90 days and in this case it has been filed on the 76th day. In view of the above, the petition has no merit, the same is liable to be dismissed and it is hereby dismissed. Sd/- DHIRENDRA MISHRA Judge	